

REMARKS

Reconsideration of this Application is respectfully requested. Claims 1-5 are in this case.

Initially, the Examiner states that Applicant's attempt to incorporate subject matter into this Application by reference to UM 200002987, UM 200002986 and 200100127 is improper because such subject matter is "essential material" for the invention and, as such, cannot be incorporated by reference to a foreign patent or application. The Examiner explains that incorporation of essential material into the specification by reference to a foreign application or patent, or to a publication, is improper. Applicant is required, the Examiner continues, to amend the disclosure to include the material incorporated by reference. The Examiner also indicates that such amendment must be accompanied by an affidavit or declaration executed by the Applicant, or a practitioner representing the Applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application.

Applicant respectfully states that a Supplemental Amendment and Declaration, in response to the foregoing, will follow in due course.

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Next, the Examiner rejected claim 2 under 35 U.S.C. § 112, second paragraph, for indefiniteness. More particularly, the Examiner states, claim 2 reads "...which mix the flow which is fed into the plant from different points of same". According to the Examiner, the claim is indefinite because it is not clear what is meant by the term "different points of the same".

In response, claim 2 has been amended to better define the invention without limiting effect, namely, to delineate that "the plant has a plurality of valves at selected locations about the network for flow regulation and control, and for flow mixing upon flow entry at one or more of the locations so as to achieve optimum flow balance within the system".

Accordingly, Applicant respectfully requests that the rejection of claim 2 under § 112, second paragraph, be withdrawn.

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The Examiner also rejected claims 1, 2 and 5 under 35 U.S.C. §§ 102(a) and (e) as being anticipated by Illias et al., U.S. Patent No. 6,168,714. According to the Examiner, Illias et al. disclose a filter system in which the feed fluid flow is reversed, as provided in instant claim 1 (FIGS. 2A and 2B; column 3, lines 1-45; and column 4, line 25 - column 5, line 23). In addition, the Examiner states that the system has a control valve, as in instant claim 2, and that the membrane filter allows such reversal of flow, as in instant claim 5 (columns 4 and 5).

Furthermore, the Examiner rejected claims 1-5 under 35 U.S.C. § 102(b) as being anticipated by the European Patent, EP 0 355 633. The Examiner takes the position that the European Patent discloses a membrane filtration plant with several membrane filters in parallel, as in instant claims 3 and 4, having flow reversal, as in instant claim 1, with a control valve system for flow reversal, as in instant claim 2, and filters having structures that allow such flow reversal, as in instant claim 5 (FIG. 3; columns 5 and 6).

Finally, the Examiner rejected claims 3 and 4 under 35 U.S.C. § 103(a) as being obvious and, therefore, unpatentable over Illias et al. in view of Lapierre, U.S. Patent No.

4,702,842. According to the Examiner, Illias et al. disclose a membrane filter system having flow reversal, as in instant claim 1 (FIGS. 2A and 2B).

The Examiner acknowledges that Illias et al. do not teach multiple filters in parallel or series with the filters connected head to head without a log of piping in between, as in instant claims 3 and 4. However, the Examiner asserts, it is a common practice in the membrane filtration industry to have filter elements connected in series and parallel, head to head, with little or no interconnecting piping, as is allegedly shown by Lapierre (Figures). The Examiner concludes that it would have been obvious to one of ordinary skill in the art, at the time of the invention, to connect multiple filters via their head ends to make up a plant for increased filtration capacity.

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Applicant, however, respectfully disagrees with the Examiner's reading and application of the cited references.

First, unlike the present invention, we submit, the Illias et al. reference does not disclose or suggest a filtration plant having a *network of multiple, interconnected filters*. In this connection, Applicant respectfully directs the Examiner to the section of the Office Action where it is acknowledged that Illias et al. indeed do not teach multiple filters in parallel or series with the filters connected head to head without a log of piping in between. Illias et al. also do not describe the use of control valves and flow reversal as taught by Applicant, nor do they discuss the sort of membrane filters that would allow such reversal of flow.

Second, Applicant differs with the Examiner as to what is shown and described in the European Patent. Based upon the information available to Applicant, the European

Patent does not disclose the use of a plurality of membrane filters of a single type, as disclosed by Applicant, that are arranged in parallel, adapted for flow reversal, nor does the Patent describe a control valve system for flow reversal as specifically claimed by Applicant.

Finally, Applicant respectfully disagrees that what is claimed is reflective of common practice in the membrane filtration industry. In this regard, Applicant submits that the Figures of Lapierre neither disclose nor suggest the direct connection of filter elements, head to head, in series and parallel, in the manner claimed by Applicant, i.e., without the need for external piping. Although the Examiner found that it would have been obvious to connect multiple filters via their head ends to make up a plant for increased filtration capacity, such a conclusion, it is respectfully submitted, expands the cited references way beyond what is shown or described, and what possibly could be suggested.

Such a conclusion, we respectfully submit, is also tantamount to a hindsight reconstruction of Applicant's invention by not only picking and choosing features from the prior art, but also extrapolating them in order to arrive at Applicant's result.

Applicant, therefore, respectfully submits that none of the cited references, taken alone or in any combination, disclose or suggest his invention, as claimed. In this connection, Applicant notes that independent claim 1 is amended to delineate that the system of the present invention relates to a *network of circuitously arranged, interconnected membrane filters*. In turn, claim 1 and dependent claims 2-5 are also amended for clarity of language in order to better comport with U.S. practice.

Withdrawal of the Examiner's rejections under §§ 102(a), (b), (e) and § 103(a) are, thus, respectfully requested.

Applicant has made a good faith attempt to place this Application in condition for allowance. Favorable action is requested. If there is any further point requiring attention prior to allowance, the Examiner is asked to contact Applicants' counsel at (212) 768-3800.

Please charge any additional fees that may be required to our firm Deposit Account No. 50-0518.

Respectfully submitted,


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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on May 6, 2003

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